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Docket No.: M4065.0743/P743
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Steven T. Harshfield, et al.

Examiner: William D. Coleman

Application No.: 09/853,233 ✓

Art Unit: 2823

Filed: May 11, 2001

Allowed: March 9, 2004

For: MEMORY CELL AND METHOD OF
MAKING SAME (AS AMENDED)

AMENDMENT UNDER 37 C.F.R. §1.312

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop: Issue Fee
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Dear Sir:

This paper is in response to the Notice of Allowance dated August 25, 2004.

Please amend the above-identified U.S. patent application as follows:

Amendments to the Specification begins on pg. 2 of this paper.

Remarks begin on pg. 3 of this paper.



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For: MEMORY CELL AND METHOD OF
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REQUEST FOR SUPPLEMENTAL NOTICE OF ALLOWABILITY

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2011 South Clark Place
Customer Window, Mail Stop: Issue Fee
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Dear Sir:

In reviewing the above-captioned application file upon allowance, Applicants' undersigned representative noticed that the Notice of Allowability, dated August 25, 2004, in the Allowable Subject Matter portion, incorrectly indicates that claim 59 is allowable. Claim 59 was canceled during prosecution and is being pursued in divisional application no.: 10/205,387, filed on July 25, 2002. Applicants submit that claim 95 is in condition for allowance rather than claim 59.

In addition, an Amendment under 37 C.F.R. §1.312 is being filed concurrently herewith. The Rule 312 Amendment requests that the Title of the Invention be amended to be more descriptive of the allowed claims. The allowed claims are directed to a "Memory Cell" rather than a "PCRAM Memory Cell." No new matter was added.

Moreover, Applicants respectfully request that the Examiner clarify his reasons for allowance, disclosed in the Allowable Subject Matter portion of the Notice of Allowance dated August 25, 2004. Specifically, the Examiner stated that "Claim 21, 23, 24, 25, 26, 28, 29, 30, 31, 35, 36, 37, 38, 42, 43, 44, 84, 85, 86, 89, 90, 91, 92, 93, 94, 59 [sic], 96, 97, and 98 allowed are incorporated into the affidavits filed December 23, 2003." The reason for allowance is not clear.

Applicants submitted a Declaration of Terry Gilton Calling Attention to Information Pursuant to 37 C.F.R. § 1.56 on December 23, 2003. Thus, only one Declaration was submitted. The Declaration disclosed prior art that was known to the Applicants. Accordingly, if claims 21, 23-26, 28-31, 35-38, 42-44, 84-86, and 89-98 are allowable subject matter over the prior art disclosed in the Declaration, then Applicants concur with the Examiner's reasons for allowance. If this is not the case, however, Applicants respectfully request that the Examiner clarify the reasons why the claims are allowable. In any event, the allowable claims are not "incorporated" into the December 23, 2003 Declaration, since the Declaration merely disclosed prior art.

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Therefore, the Examiner is kindly requested to issue a Supplemental Notice of Allowability acknowledging that claim 95 is Allowable Subject Matter. Similarly, the Supplemental Notice of Allowability should indicate that the Title of the Invention is "Memory Cell and Method of Making Same". Moreover, the Examiner is respectfully requested to clarify his statement regarding the reasons for allowance of claims 21, 23-26, 28-31, 35-38, 42-44, 84-86, and 89-98.

Dated: October 25, 2004

Respectfully submitted,

By 

Thomas J. D'Amico

Registration No.: 28,371

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